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# **India's Unique Role in the Enhancement of Democratic Governance as a Model of Constitutional Democracy**

Hiroaki Shiga\*

## **Abstract**

How can the unique knowledge, experience, technology, institutions, norms, and ideas of developing countries contribute to the political, economic, and social development of other developing countries? This question is worth asking, as ongoing discussions regarding emerging donors have failed to explore the possible contribution of developing countries to governance issues through the utilization of their unique resources.

This paper examines the realities and potential of India's contribution to the enhancement of democratic governance in developing countries. It argues that India's enduring experience of constitutional democracy has been attracting attention from other developing countries, particularly those who are tackling the daunting challenge of consolidating democracy in tandem with the projects of nation-building and state-building within the inherently hostile environment of an ethnically and religiously divided society.

**Keywords:** India, emerging donor, democratic governance, democracy promotion, constitution, constitutional democracy

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## 1. Introduction

How can the unique knowledge, experience, technology, institutions, norms, and ideas of developing countries contribute to the economic, political, and social development of other developing countries? What role can they play in the enhancement of good governance in other developing countries? These questions have been left virtually unexplored in the ongoing discussions about the so-called “emerging donors” that have gained impetus since the mid-2000s. Worse still, we have witnessed persistent speculation that through their alleged indifference and negligence of “good governance” issues such as democracy, rule of law, human rights, or anti-corruption, emerging donors are spoiling the concerted efforts of traditional donors to improve governance in developing countries (Naím 2007).

A notable exception to the general lack of interest and research on the positive contribution of developing countries to governance issues is the recent attention in Western literature given to the role India plays in facilitating democratic governance. I would argue, however, that conventional literature fails to duly evaluate the holistic picture of India’s contribution to the promotion of democracy. This paper argues that this task requires two things: the revision of the concept of “democracy” to include the notion of *constitutional* democracy, and the expansion of the scope of research to include India’s “soft power” aspects in terms of its almost unblemished record of constitutional democracy. My main argument is that India’s enduring experience of constitutional democracy offers an attractive model for other developing countries facing the triple challenge of building a state, a nation, and a democracy, and that India’s potential as a promoter of democratic governance is promising.

## **2. Review of conventional literature on India's role in the promotion of democracy**

### **2.1 Background to the recent attention given to India**

Since the 2010s, Western observers have begun to pay more attention to India's role in the enhancement of democratic governance. A major factor that facilitated this increase in attention was the slowdown of the global trend towards democratization in the 2000s. Contrary to the Western euphoria felt after the end of the Cold War that saw democracy gain a "near universal normative acceptance" (McFaul 2005), the "Third Wave of democratization" (Huntington 1993) lost impetus in the 2000s. Many countries failed to consolidate their democracy and some slid back to authoritarianism. Presently we are witnessing a world where "the resilience of undemocratic regimes and the trend towards authoritarianism has become the global rule" (Burnell and Schlumberger 2011, 3). The democratization of Iraq by force was fatal to Western-led efforts for the promotion of democracy as it "tarnished its reputation beyond repair" (Whitehead 2009, 215). Western countries were driven into a situation in which they could not go back to the excessive self-confidence of the 1990s but nonetheless were not able to discard the normative commitment to the promotion of democracy (Whitehead 2009, 225). Thus, Western countries began to look for a reliable partner to help reverse the "trend towards authoritarianism."

It was exactly at this time that Western policymakers and academics interpreted several signs from the Indian government as showing a significant change in the Indian traditional diplomatic posture toward the promotion democracy. Before the 2000s, India never presented itself in the international arena as an active and principled promoter of democracy.<sup>1</sup>

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<sup>1</sup> One reason for this position relates to India's diplomatic aspiration to garner support from other developing countries and thus to take a leadership role in the Third World as a "spokesperson of the global South." Presenting itself as an ardent promoter of democracy was not a good policy since it was reminiscent of crusading Western interventionism, and thus attracted displeasure from the leaders of the undemocratic regimes prevalent in the Third World. The other reason is that India had been obliged to remain engaged with whichever government was exercising authority in any country in its neighborhood, whether they were democratic or undemocratic, (Saran 2005). This is because India had to deal with a

“Non-interference” had been one of the main pillars of Indian diplomacy and aid policy (Kondoh et al. 2010), and India carefully eschewed taking the role of “proselytizing” an authoritarian regime into a democratic one.<sup>2</sup>

The first sign of change appeared in its “neighborhood policy.” In the face of protracted socio-political instability and civil war in Nepal, India proactively engaged in the peaceful settlement of the civil war and democratization in cooperation with Western countries including the United States.<sup>3</sup> In 2005, India showed another sign by taking the lead in establishing the United Nations Democratization Fund (UNDEF) in cooperation with the United States; since then it has been the second-largest contributor only after the United States. In his address at the launching ceremony of the UNDEF, the then Indian Prime Minister Manmohan Singh emphasized the significance of democracy in facilitating development:

As the world’s largest democracy, it is natural that India should have been among the first to welcome and support the concept of a UN Democracy Fund. We believe that democracy based on universal adult suffrage empowers the most humble citizen of our country and gives him a sense of dignity. Poverty, illiteracy or socio-economic backwardness do not hinder the exercise of democracy. Quite the contrary, our experience of more than 50 years of democratic rule demonstrates how democracy is a most powerful tool to successfully overcome the challenge of development. But most of all, democracy alone gives the assurance that the developmental aspirations of the poorest citizens of our society will be taken into consideration. This above all, is the unique strength of a democratic system....India has been sharing its rich experience, institutional capabilities and training

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host of issues vital to its own security and sustainable development, such as prevention of influx of illegal drugs and “terrorists,” the containment of Chinese encroachment, securement of a reliable electricity supply, or joint management of water resources of international rivers.

<sup>2</sup> There are notable exceptions. See section 5.

<sup>3</sup> Pratap Mehta remarked that India promoted Nepalese democracy “more constructively than the thousands of foreign consultants who are distorting that troubled country’s internal negotiating process.” (Mehta 2011, 108).

infrastructure with nations that share our values and beliefs and request our assistance. We are prepared to do much more, both as active participants in the Democracy Fund and in the Community of Democracies (2005).

Singh's depiction of democracy as the "most powerful tool" in overcoming the challenge of development was interpreted by Western policymakers and academics as a remarkable change in India's long-standing commitment to "non-interference" in aid provision and as a sign of proactive engagement in the Western-led democratization enterprise. It was expected on the Western side that "shared values and adherence to democracy" would work as "natural common ground for closer cooperation" in the promotion of democratic governance (Kugiel 2012, 1).<sup>4</sup>

## **2.2 Review of conventional literature**

Against this background, much of the conventional literature is motivated by the same research question: "Will India be a reliable Western partner in the promotion of democracy?" The title of an article by Carothers and Youngs, "Looking for Help: Will Rising Democracies Become International Democracy Supporters?" (Carothers and Youngs 2011) succinctly describes the shared concern of Western authors. However, a prognosis by the conventional literature is gloomy. They are almost unanimous in concluding that India would not be a principled partner in the promotion of democracy, at least in the near future, and that the Indian model of democracy is not attractive due to its defective nature. In other words, the conventional

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<sup>4</sup> Western expectations on India's commitment to "do much more" (Singh 2005) for the cause of democracy promotion were such that in 2009 US President Barack Obama remarked in the Indian Parliament that: "Western countries and India found themselves on opposite sides of a North-South divide, estranged by a long Cold War. Now, those days are over. Western countries and India can be, and should be, natural partners for strengthening the foundations of democratic governance globally" (Obama 2010).

literature concludes that western countries cannot expect much from India, be it as an active promoter of democracy or as an exemplar of democracy.

An example of this comes from Burnell and Schlumberger, prominent scholars on democratization, who criticize India's commitment to the promotion of democracy as still being quite weak in spite of the fact that it is surrounded by undemocratic and unstable states. They argue that in order for the Western-led promotion of democracy, which was tarnished in Iraq, to regain international legitimacy, regional actors such as India should stand at the frontline; they also argue that India's initiative in South Asia would be an important barometer for determining whether democracy or authoritarianism would be a dominant direction in the future (Burnell and Schlumberger 2011, 11). Likewise, Grävingholt argues that India is making no significant contribution to the enhancement of democracy in its neighborhood and hardly acts as a democratic counterbalance to China and Russia (Grävingholt et al. 2011, 1). Twining and Fontaine are more outspoken in denouncing India: they describe India's current status in international politics as a "free-rider," and warn that if India wants to be at the "high table of world politics," it has to take on a "different responsibility as a manager of world order" (Twining & Fontaine 2011, 202). In sum, the literature argues that India still does not contribute in a visible manner to the West's concerted effort to undertake a counter-offensive against the "trend towards authoritarianism" by proselytizing undemocratic regimes.

To-date, there has been only a limited assessment of those Indian activities for the promotion of democracy that fall within the category of development aid. Many commentators discuss India's comparative advantage in delivering democracy assistance and recommend that India's rich experience in organizing and monitoring elections should be shared by other developing countries (Faust and Wagner 2010, 4; Kugiel 2012). No reference or evaluation is made to India's development aid for institution building and capacity development, which are both indispensable for democratic governance (I will examine these concepts in Section 5, below).



Regarding the possibility that India could serve as an “exemplar” of democracy for other developing countries and thus differentiate itself both from a “crusading and domineering West and a cynical China” (Mohan 2011), the assessment in conventional literature is also pessimistic. For example, Faust and Wagner point to Indian “political deficiencies” such as clientelism, patronage, and corruption, and argue that “only a credible domestic assault on bad governance will be able to promote the basis of (India’s) international soft power” (Faust and Wagner 2010, 4).

### **3. Causes of the underestimation of India’s role in the promotion of democracy**

Both the reality and the potential of India’s role in the promotion of democracy are underestimated in conventional understanding. The defects in conventional literature are twofold: firstly, conventional literature tends to focus narrowly on the role of a state as an external actor in the “proselytizing” of authoritarian regimes into democracy; this leaves India’s active development aid for the consolidation of democracy, as well as its potential to serve as an “exemplar” of democracy, virtually unexplored.

Secondly, conventional literature employs a minimalistic definition of democracy that places weight on the right of people to choose their leaders by means of regular, free and fair elections (Diamond 2009, 21), leaving the imminent danger of majoritarian democracy and the importance of the sound development of constitutional democracy in divided societies unattended. As we shall see later, constitutional democracy is the very mode of democracy which India has been serving as a model for other developing countries.

#### **3.1 Scope of research**

The first defect in conventional literature relates to its scope, as it fails to assess the holistic picture of India’s contribution to the promotion of democracy.

In general, as an external actor, a state can contribute to the enhancement of democratic governance in other countries in various ways (table 1). A state can cajole, prod, or even pressurize authoritarian regimes into democratizing, or they can mediate a negotiation among conflict parties and thus facilitate democratic transition. After the transition, a state can facilitate democratic consolidation by assisting with institution building and capacity development within various organizations, which is essential for democracy to function. There is an abundance of policy instruments available: a state can employ military intervention, economic sanctions, or extend development aid. Much less focused, but nonetheless an important contribution to the enhancement of democracy, are cases where a state serves as a model to be venerated, studied, and emulated by other countries.

Table 1. Multiple ways of contribution to democratic governance

Type	Example		Phase	Nature of state action
Active promotion of democracy	<i>vis-à-vis</i> undemocratic regimes	Exerting pressure on the leadership of undemocratic regimes to democratize	Democratic transition	Strategic and diplomatic
		Mediation and brokering of democratic transition		
		Assistance to anti-government political parties, NGOs, and mass-media		
	<i>vis-à-vis</i> democratic /democratizing regimes	Assistance to democratic institution building and democracy-related capacity development of government and civil society organizations	Democratic consolidation	International development aid
Provision of materials necessary for democratic procedures (i.e. elections)				
Serving as a model of democracy	Unique norms, ideas, institutions, and practices are venerated, studied, and emulated by other countries		Democratic transition and consolidation	No state action required

Source: author

In conventional literature on the various options, especially that written by the students of democratization, the focus tends to be on the phase of democratic transition - a revolutionary phase of democratization in which the incumbent authoritarian regime is toppled and power is transferred to the democrats. They regard visible or even eye-catching measures for facilitating democratic transition, such as diplomatic pressure or sanctions on authoritarian

regimes or direct support for democratically-minded forces (such as opposition parties, anti-government mass media, or advocacy NGOs), as evidence of a principled commitment to the cause of global democratization.

The unfortunate consequence of this tendency to focus on the more radical measures, is that much less attention has been paid to those methods which facilitate the long and difficult process of democratic consolidation after transition,<sup>5</sup> not to mention India's role as a model of democracy for other developing countries. This has a pernicious effect on the fair evaluation of India's role, as development aid for democratic consolidation is India's main field of activity (this argument will be examined further in Section 5, below). Moreover, being able to serve as a model of democracy is the most unique aspect of India's contribution to the enhancement of democratic governance in other developing countries (I will examine this in Section 4, below).

### **3.2 Definitional problems of “democracy” and “democratization”**

#### **3.2.1 Importance of an inclusive and pluralistic democracy**

The second problem with conventional literature is that its evaluation of Indian activities and resources for the promotion of democracy is based on an inappropriate definition of the term “democracy.” My argument here is that it is necessary to extend the definition of democracy by departing from the minimalist one advanced by Robert Dahl. Dahl's concept of democracy, or “polyarchy,” is made up of two components: people's participation in politics through free and periodic elections, and freedom of political speech (freedom of public contestation) (Dahl 2000). It is clear that these two components are vital for democracy; however, the problem is that they are the “minimum requirements of democracy” (Tsunekawa 2000, 1-3), and Dahl

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<sup>5</sup> It is clear that the study of democratization is shifting its focus from democratic transition to democratic consolidation. Nonetheless, studies on the promotion of democracy have failed to change their focus accordingly.

misses the indispensable elements for tackling the daunting challenge prevalent in many developing countries, namely, that democracy must be consolidated in tandem with the projects of nation-building<sup>6</sup> and state-building<sup>7</sup> within the inherently hostile environment of a divided society.<sup>8</sup>

In a divided society, the ethnic, cultural, and religious minorities are doomed to be a constant minority in the political scene, no matter how many times “free and fair elections” are implemented; the minorities are therefore virtually marginalized from political decision-making process. In other words, there is no interchangeability of the majority and the minority through the electoral process. From the viewpoint of minorities in such situations, elections, parliament, and laws are nothing more than instruments of the “tyranny of majority,” if the majoritarian will expressed through elections is deemed omnipotent in legislative and political decision making. Worryingly enough, Jon Elster’s concern that after democratic transitions in Eastern European countries “dictatorship by communists was just replaced by majoritarian dictatorship” (Elster 1992), is now coming to reality in many other countries. In such situations, the cleavage between the majority and the minorities would never be overcome, and no sense of national unity beyond parochial ethnic or religious group identities would be formed, thus making the projects of nation-building and state-building remote goals. Indeed, this is the very problem that dominates politics in many “fragile” or “failed” states.

In this regard, it is worth noting that India emphasizes the importance of *inclusive and pluralistic* democracy in making democracy sustainable and enduring. Former Prime Minister Manmohan Singh said that both authoritarianism and *majoritarianism* are an aberration, and said:

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<sup>6</sup> Nation-building refers to the creation of common national identities that serve as a locus of loyalty that trumps attachment to tribe, region, or ethnic group (Fukuyama 2015, 39).

<sup>7</sup> State-building refers to the creation of a political organization that possesses a monopoly on legitimate coercion and exercises that power over a defined territory (Fukuyama 2015, 9-10).

<sup>8</sup> In a divided society, political decision-making on important public policies is hampered by the lack of mutual trust among ethnic groups (Choudhry 2008, 5).

Our commitment to democracy is conjoined with a commitment to the deeper values of pluralism and liberalism. India's embrace of diversity as an essential ingredient of our democracy what today is characterized as multiculturalism is deeply rooted in our culture... This is a model of democratic practice that has great relevance to this fractured world, in which we often hear seductive arguments equating ethnicity or language or religion with nationhood. Such flawed hypotheses do not create states or civilizations. Democracy cannot be based on exclusion; it has to be inclusive because it celebrates plurality... Multicultural nations like ours, will remain the targets of the protagonists of bigotry because our societies invalidate their thesis (2005) .

This notion of inclusive and pluralistic democracy, which embraces ethnic, religious, and cultural diversity, is the defining characteristic of Indian democracy and a model that has been emulated by other developing countries striving for the triple challenge of nation-building, state-building and the consolidation of democracy.

### **3.2.2 Importance of prudent constitutional design**

Having said that, inclusive and pluralistic democracy is a vague notion or slogan. It needs to be institutionalized in a constitution and duly exercised. Focusing on constitutions is important as democratization never fails to be accompanied by the drafting of a new constitution. In fact, the third wave of democratization in the 1990s, resulted in the creation of many new constitutions. Additionally, a constitution is important for the future of a country as it not only establishes a government framework and new rules of the game, but it also stipulates the defining characteristics of a newly established state, polity, and nation.

The imminent problem in drafting a new constitution is that democratic transition does not necessarily guarantee the formulation of a constitution that works as a solid base for an inclusive and pluralistic democracy. Worryingly, in many developing countries Elster's

concern for “majoritarian dictatorship” is becoming a reality in the process of constitutional drafting. The advent of the so-called “constitutional nationalism” is a manifestation of such danger. “Constitutional nationalism” is a term that was coined by Robert Hyden in his examination of the situation of the newly independent republics of the former Yugoslavia, and is defined as “a constitutional and legal structure that privileges the members of *one* ethnically defined nation over other residents in a particular state” (Hyden 1992, 655, italics mine). Under this regime, a nation is defined not in civic terms but in the ethnic or religious terms of the dominant majority group; this results in the legal, political, social, and cultural exclusion and alienation of other minorities. In other words, constitutional nationalism undermines the creation of an inclusive and pluralistic democracy.

The danger of “constitutional nationalism” is especially imminent in India’s neighboring states of Nepal, Bhutan, and Sri Lanka (Malagodi 2013a, 1). For instance, in Nepal’s first democratically drafted constitution, which came into force in 1990 and was the fruit of democratization, the Nepali nation was defined in the ethno-cultural terms of the dominant ethnic group, namely, Hinduism, the Shah monarchy, and the Nepali language, in defiance of the country’s remarkable ethno-cultural, religious, and linguistic diversity.<sup>9</sup> Worse still, no institutional measures aimed at protecting minorities, such as a federal system of decentralization, reservation of seats in parliament for minorities, or affirmative action, were adopted in the constitution. As a result, the minorities felt that they were excluded and marginalized, political instability was exacerbated, and civil war ensued.

This example testifies to the importance of prudent constitutional design as a means of ensuring the smooth functioning of inclusive and pluralistic democracy by entrenching the protection of minorities. More concretely, a civic rather than an ethnic definition of the word “nation”; a guarantee of a minority’s cultural, religious, and linguistic rights; separation of powers; an independent and active judiciary; the separation of state and religion; and

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<sup>9</sup> Nepal has 92 languages, 102 caste and ethnic groups, and 10 religions (Malagodi 2010, 56).

self-government by minorities via federal arrangements, are vitally important. Furthermore, in order to rectify the situation where marginalized people are substantially deprived of the opportunity to participate in the political and judicial processes, constitutionally entrenched measures for their empowerment are indispensable.

Having said that, as James Madison sarcastically said, a constitution itself is a mere “parchment barrier” which is too meager to check and contain the arbitrariness of the political strongmen or majoritarian will expressed through elections. In other words, a constitutional guarantee of minority rights exists only on paper. Hence, constitutional democracy must be exercised through vibrant implementation of constitutional provisions: the separation of powers as a system of checks and balances must be well functioning, and above all, the courts must be bold enough to challenge the democratic government when its behavior is unconstitutional and infringes minority rights. In summary, the inculcation and maintenance of sustainable norms and cultures of constitutional democracy is a *sine qua non* for the consolidation of inclusive and pluralistic democracy (Harbeson 2013, 88).

#### **4. India’s unique role as a facilitator of constitutional democracy**

As the discussion so far suggests, inclusive and pluralistic democracy should be a form of democratic governance for developing countries which consolidates democracy and makes it sustainable. In order for inclusive and pluralistic democracy to be consolidated, it must be institutionalized in a constitution and be duly implemented. This means that contributions to the promotion of democratic governance in developing countries must be discussed and evaluated accordingly. From this perspective, two facts are important in examining India’s unique role as a facilitator of democratic governance.

The first point to be noted is that India’s constitution is one of the oldest of any developing country, and is virtually the only constitution that has been vibrantly implemented

without suspension or significant amendments of its fundamental structure. The remarkable experience of Indian constitutional democracy is widely studied, utilized, and referred to by many developing countries, especially by neighboring states and African countries, making the Indian constitution one of the most studied constitutions in the world. The second fact is that India has been offering assistance for constitutional drafting to other developing countries, thereby making the most of its own experience of constitutional democracy. To the best of my knowledge, India is the only developing country that extends assistance of this kind. These two facts will be explored further in the following sub-sections.

#### **4.1 The soft power of Indian constitutional democracy**

The attractiveness of Indian constitutional democracy is evident in the fact that its experience is often referred to and utilized in other developing countries. Overall structures, individual provisions, institutions, case law, and the underlying ideals and norms of the Indian constitution have been studied by the constitutional drafters of other countries, such as South Africa, Tanzania, Uganda, Nepal, Bhutan, and Malaysia. For example, the Constitutional Commission of Uganda chose four foreign constitutions which they then referred to when drafting the new Ugandan constitution in the late 1980s - the Indian constitution was the only one from a developing country (Odoki 2005, 83).<sup>10</sup> Not only the Indian constitution was studied but some institutions were emulated and introduced by other countries. For example, Public Interest Litigation (PIL), an Indian constitutional innovation and a powerful institution for the empowerment of the marginalized in accessing judicial procedures, was introduced not only in South Asian countries such as Bangladesh, Nepal, and Bhutan, but also by African countries such as South Africa, Kenya, Uganda, Zambia, and Tanzania (Oloka-Onyango 2015). In addition, case law accumulated in the course of the implementation of the Constitution and

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<sup>10</sup> The other constitutions that were studied were those of the United States, West Germany, and the United Kingdom.



judgments by the Indian Supreme Court are often referred to and cited in the judgments of courts in other countries.<sup>11</sup>

Needless to say, the common historical experience of being colonized and governed by the British Empire and the resultant proximity between the legal systems partly explains the above-mentioned flow of knowledge and experiences between India and the adjacent countries and Anglophone African states. In particular, neighboring states had been exposed to the British model of legal and political institutions as revised in the Indian context, and this Anglo-Indian model was the institutional framework with which many leaders of those states were most familiar and comfortable (Go 2002).

However, a more important factor in explaining the attractiveness of Indian constitutional democracy is that the Indian Constitution was virtually the first constitution designed to tackle the challenge of building democracy, nation, and state *simultaneously*. The Indian Constitution was adopted in 1950 and is one of the oldest constitutions of any developing country. The constitution is the fruit of deliberations by constitutional framers in the face of imminent danger of failing to create an “Indian” nation and democracy, and the dismemberment of the state. It is a well-balanced hybrid of imported and indigenous components, and it opened up an “innovative period of alternative constitutional arrangements shaped by the difficulties of underdevelopment and cultural diversity” (Klug 2000, 11). The constitution introduced the parliamentary system of its colonial master, whereas the Bill of Rights was adopted mainly from the constitution of the United States. In contrast, affirmative action measures to empower minorities and the poor were largely homegrown. For example, PIL was created and developed out of a series of case law formulated from the judgments of the Supreme Court of India.

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<sup>11</sup> For instance, the judgment of South Africa’s Constitutional Court in 2002 cited the rulings of the Indian Supreme Court in PIL, in dealing with the question of whether courts can enforce the socioeconomic rights of South African citizens.

Another important factor is that Indian constitutional democracy has survived under the inhospitable conditions of multiple ethnic, religious, and cultural cleavages and a hierarchical social structure. The Indian Constitution has been exercised almost uninterrupted since its adoption in 1950. The separation of powers functions well, and the Supreme Court is sometimes bold enough to declare parliamentary laws to be unconstitutional and thus null and void. PIL is actively utilized in favor of the marginalized. In this sense, it would not be an exaggeration to argue that India is virtually the sole example of a developing country that has been operating successfully under a constitutional democracy for such a long time. The prudent structure of the Indian Constitution as well as its long-standing and vibrant implementation have raised its status to one of the most studied constitutions in the world, along with the constitutions of the United States, the United Kingdom, Canada, Germany, New Zealand, South Africa, and Israel (Khilnani, Raghavan and Thiruvengadam 2013, 12-13).

#### **4.2 India's support for the promotion of constitutional democracy**

The attractiveness of Indian constitutional democracy as a relevant model is a solid foundation for India to extend its assistance to the promotion of constitutional democracy, especially constitutional drafting in other developing countries. To begin with, in 1947 the Indian government, at the request of the Burmese Government, dispatched Dr. B. N. Rau, a member of the Indian Constituent Assembly and a father of the Indian Constitution, to Rangoon to assist with the drafting of a democratic constitution (Gupta 2013, 85). Since then, India has assisted with constitutional drafting in Nepal, Bhutan, Sri Lanka, South Africa, Uganda, and Tanzania. Most recently, India helped with the drafting of Bhutan's first constitution in 2008 by dispatching K.K.Venugopal, a senior advocate of the Supreme Court of India to assist. Moreover, in 2014 the Indian External Affairs Minister Sushma Swaraj pledged India's continuous support for the constitutional drafting process in Nepal. A noteworthy fact is that in

many cases India was the only developing country to extend assistance of this kind. For example, its support for the making of a constitution in Uganda in the late 1980's was provided in conjunction with Australia, Canada, Denmark, West Germany, the United Kingdom, and the United States - which are all developed countries (Odoki 2005, 34).

Needless to say, supporting constitutional drafting in other countries is an inherently difficult endeavor, since a constitution is a country's most fundamental legal and political document and hence its drafting is the most politically sensitive process in which the presence of foreign advisors could easily be interpreted as infringement of constitutional sovereignty and autonomy. This is especially the case for India's engagement in constitution making in other countries, taking into consideration its intimidating size and power, as well as India's previous "Indira Doctrine" – an interventionist foreign policy toward its neighbors. One of the most illustrative incidences showing how difficult it is for India to engage in the constitutional affairs of its neighbors was the intervention by the then Prime Minister Indira Gandhi in the ethnic conflict in Sri Lanka. In 1987, India brokered a peace agreement between warring parties and put pressure on Colombo to relinquish the constitutionally entrenched "Sinhalese-first policy" and to accept a constitutional amendment to accommodate the demand of ethnic minority Tamils. The Indian "advice" was to introduce an India-like decentralized governance system to expand the autonomy of Tamils, as well as to elevate the Tamil language to the status of an official language beside Sinhalese (Jacobsohn and Shankar 2013,196). The Sri Lankan Government's reticent acceptance of India's "advice" elicited violent protests by majority Sinhalese, which resulted in the reoccurrence of civil conflict. After the adoption of the Gujral Doctrine in 1996 in which India pledged a new neighborhood diplomacy designed to foster mutual trust among South Asian countries, India abstained from taking a high-handed policy of interventionism in order to win the confidence of neighboring countries that it would no longer conduct "big stick diplomacy."

Having said that, India cannot afford to be indifferent to the constitutional arrangements of its neighbors, as it duly recognizes that “constitutional nationalism” would bring about political and social destabilization in adjacent countries, and thus threatens India’s own security.<sup>12</sup> Therefore, the dilemma for India is that it must eschew any high-handed and salient actions that could be interpreted by recipient countries as India’s undue intervention in domestic affairs, and at the same time it must make sure that its neighbors would be prudent enough to formulate a solid constitutional foundation for an inclusive and pluralistic democracy.

However, the conditions favorable to India strengthening its engagement are being put into place. Firstly, inclusive and pluralistic democracy is steadily being adopted in neighboring countries. For instance, in Nepal, the argument that the majoritarian democracy adopted in the 1990 Constitution should be replaced by more inclusive and pluralistic democracy has gained impetus, and as a result, elements of “constitutional nationalism” in the 1990 Constitution were substantially eradicated from the Interim Constitution adopted in 2007 (Malagodi 2013b). Secondly, in neighboring countries where antipathy and vigilance against India is still prevalent, a willingness to learn from the Indian experience is growing. For instance, legal experts in Nepal are increasingly ready to learn from the Indian experience of constitutional democracy. The argument given by Dr. Bipin Adhikari, Dean of the Kathmandu University School of Law, seems to suggest this change. He welcomes the fact that the incumbent Constituent Assembly is “the most inclusive, heterogeneous and representative body in Nepalese history” (Adhikari 2010). However, he expresses his dissatisfaction at the fact that constitutional drafting is retarded because of the inability of the Assembly to compromise and decide, and has stated that so far the Assembly has only made the “Statue of Liberty without a head” (Adhikari 2010). Adhikari goes on to argue that most of the important modern examples of success in getting a new democratic constitution through an elected constituent assembly,

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<sup>12</sup> Influx of refugees due to ethnic conflict in Nepal, Sri Lanka and Bhutan is an example.

*including an Indian one*, have some common features, such as the presence of a charismatic leader and a leading political party, and a common commitment to constitutional democracy (Adhikari 2010, italics added). In a country where anti-Indian sentiment is still prevalent, it is meaningful that an influential legal expert such as Adhikari has advocated for the need to learn from the Indian experience. The hand has also been outstretched by the Indian side: Indian constitutional lawyers went to Kathmandu to share the Indian experience and recommended that their Nepali counterpart should learn from the Indian failure to manage affirmative action programs designed to empower the estranged ethnic minorities in Darjeeling (Malagodi 2010, 70).

The growing inclination to learn from India is not limited to Nepal. Urged on by the common recognition that South Asia is the least integrated region in the world, an increasing number of politicians and legal experts have come to believe that integration of the legal system is necessary for successful regional integration and cooperation. The network of politicians and legal professionals of South Asian countries called SAARC-LAW<sup>13</sup> is now reinvigorated, which would further facilitate the exchange of experiences of constitutional democracy among India and its neighbors.

The growing interest in the Indian experience is not limited to South Asian countries. For instance, in 2012 an international seminar was convened in Zambia to discuss the potential of PIL with financial assistance from the India-funded United Nations Democracy Fund (UNDEF). It was argued in the seminar that PIL has a high potential for the realization of the right to healthcare for vulnerable and disadvantaged groups, such as those infected with HIV/AIDS, and that it provides a useful avenue for improved access to justice (SALC 2012).

In summary, there are growing prospects for Indian constitutional democracy to be a promising model for democratic governance, and thus it would be an important resource that

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<sup>13</sup> It was established in 1991 as one of the organizations under SAARC (South Asian Association for Regional Cooperation).

India could mobilize for the enhancement of democratic governance in the developing countries. As noted, engagement with the constitutional affairs of other countries is a multifaceted endeavor: if it is conducted in a high-handed manner, as was the case with India's involvement in Sri Lanka's constitutional amendments in the late 1980's, it would bear an overt political character and thus provoke antipathy and repercussions from those at the receiving end of the intervention. India's recent diplomatic effort to impress upon its neighbors its abdication of the role of "gendarme of South Asia" and the increasing readiness on the side of the recipients to accept Indian engagement would enable Indian assistance to assume a more apolitical and technical nature, and thus further enhance the soft power of Indian constitutional democracy.

## **5. India's long history as a promoter of democracy**

So far we have examined India's role as a facilitator of constitutional democracy. For the achievement of the goal of this article - to grasp the holistic picture of the Indian contribution to the enhancement of democratic governance in other developing countries - this section examines other aspects of India's contribution to the promotion of democracy which have been left unattended in conventional literature.

To begin with, it is not precise to say that "India has never asked another country to be democratic" (Mohan 2007, 99). Notwithstanding the prevailing image that Indian diplomacy has been characterized by its principled adherence to the doctrine of "no interference to internal affairs of sovereign state," at times India has not eschewed joining the internationally concerted effort to demand democratization. For instance, India's long-standing denouncement of the apartheid regime in South Africa was apparently a demand for democratization since it was addressed not only against the abysmal human rights violations under a discriminatory regime but was also against the lack of democratic participation of non-white population in the country's politics. In addition, the Indian government expressed support for democratic leader

Aung San Suu Kyi and demanded that the military *junta* democratize in the face of *coup d'etat* in Burma (Myanmar) in 1988.

Turning to less strategic and diplomatic activities, India has long been an active provider of development aid (which India calls “South-South Cooperation”) in the field of democracy promotion with the participation of a wide range of organizations (Table 2).

Table 2. Organizations contributing to democracy promotion abroad

Name of the organization	Activities	Established
Ministry of External Affairs	<ul style="list-style-type: none"> <li>▪ Managing Indian Technical and Economic Cooperation program (ITEC)</li> </ul>	1964 <sup>14</sup>
Election Commission of India (ECI)	<ul style="list-style-type: none"> <li>▪ Dispatching observers to elections in other developing countries</li> <li>▪ Offering training courses</li> <li>▪ Providing technical assistance to develop election laws and election management institutions</li> <li>▪ Organizing international conferences</li> </ul>	1950
Indian Law Institute	<ul style="list-style-type: none"> <li>▪ Offering training courses under ITEC</li> </ul>	1956
Indian Institute and Mass Communications	<ul style="list-style-type: none"> <li>▪ Offering post-graduate diploma course in journalism for middle level working journalists under ITEC</li> </ul>	1965
Bureau of Parliamentary Studies and Training (BPST)	<ul style="list-style-type: none"> <li>▪ Offering training courses for legislative drafting under ITEC</li> <li>▪ Offering internship program under ITEC</li> </ul>	1976
India International Institute of Democracy and Election Management (IIDEM)	<ul style="list-style-type: none"> <li>▪ Offering training courses for capacity development for election management under ITEC</li> </ul>	2011

Source: author

The flagship program for Indian technical assistance is the Indian Technical and Economic Cooperation program (ITEC) which was established in 1964.<sup>15</sup> It has been managed by the Ministry of External Affairs (MEA), and various government organizations and institutions offer a series of training courses to accommodate trainees from other developing countries.

Among these organizations, the Election Commission of India (ECI) has the longest history and was active before the establishment of the ITEC. Indeed, elections in India, or “the

<sup>14</sup> 1964 is the year of the establishment of ITEC, not that of MEA.

<sup>15</sup> For more about ITEC, refer to Kondoh et al. “Diversity and transformation of aid Patterns in Asia’s ‘Emerging Donors’”.

largest democracy in the world” (Nehru 1963, 457), are the “most vigorous democratic exercise in the world” (Suranjana 2010) in terms of their scale, magnitude, and complexities.<sup>16</sup> Making the most of their expertise in election management, the ECI has been a supporter of democratic elections in other developing countries and has been extending support for many history-making elections, such as Ethiopia’s first general election in 1954 or Cambodia’s first general election after the Paris Peace Accord in 1991.<sup>17</sup> In addition, the ECI facilitates the exchange of experiences among developing countries facing the challenges of under-representation of women and minorities who are disadvantaged in exercising their right to vote (PTI 2013). In 2011, ECI established the India International Institute for Democracy and Election Management (IIDEM) with the aim of “promoting democratic values and practices, enhancing voter education and awareness and developing human resource and capacities for efficient conduct of free and fair elections in India and for developing mutually beneficial partnership as well as collaborations with other countries” (Election Commission of India 2011). IIDEM provides capacity development programs for electoral commissions officials from a remarkably wide range of countries, including India’s neighboring states (Afghanistan, Bhutan, Bangladesh, and Nepal), various Southeast Asian countries (Thailand, Myanmar, and Indonesia), former Soviet Union countries (Armenia, Lithuania, Ukraine, and Tajikistan), African countries including South Africa, and Iraq. Additionally, materials indispensable for more efficient and less fraudulent elections, such as electronic voting machines or indelible ink,<sup>18</sup> are provided to numerous countries.

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<sup>16</sup> The number of voters for the 16<sup>th</sup> election of the *Lok Sabha* (the Lower House) in 2014 amounted to 814.5 million, which is significantly bigger than the total number of voters in the EU and the United States. The election was implemented in 919,452 polling stations, and by using 1.88 million electronic voting machines (Chand 2014).

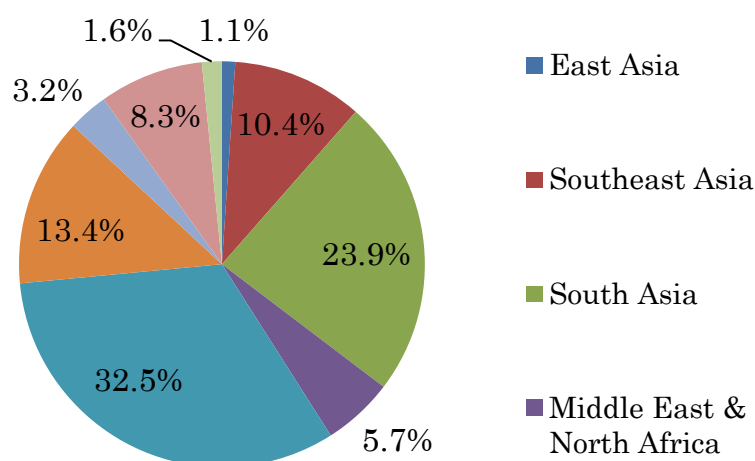
<sup>17</sup> Interview with the Indian Embassy in Phnom Penh in February 19, 2009.

<sup>18</sup> Indelible ink is also known as voter’s ink and is used to mark voters’ fingers to avoid fraudulent, multiple voting, and malpractices. The Indian company, Mysore Paints & Varnish Ltd., has exported the ink to 28 countries across the world, including Turkey, South Africa, Nigeria, Nepal, Ghana, Papua-New Guinea, Burkina Faso, Canada, Togo, Sierra Leone, Malaysia, and Cambodia.



Attracting our attention is the fact that numerous countries are the beneficiary of Indian democracy promotion assistance.<sup>19</sup> For example, during the period from 2010 to 2016, the Bureau of Parliamentary Studies and Training offered training and internship programs for 566 participants from 87 countries. Sub-Saharan African countries (for example, Kenya, Tanzania, Uganda, and South Africa) are the largest beneficiaries, followed by the South Asian countries (for example, Sri Lanka, Bangladesh, and Afghanistan), Former Soviet Union (for example, Belarus, Lithuania, Uzbekistan, and Ukraine) and Southeast Asian countries (such as Myanmar, Cambodia, Indonesia, and the Philippines).

Figure 1. Regional Distribution of trainees accommodated by the Bureau of Parliamentary Studies and Training from 2010 to 2015



Source: calculated by the author from the data by BPST

<sup>19</sup> Under the ITEC program, a beneficiary country submits an application form to the MEA for each training course.

## **6. Conclusion**

This paper has demonstrated that India plays a unique role in facilitating democratic governance in other developing countries by making the most of its own experience of constitutional democracy. Moreover, it has explored the possibility of assistance for constitutional drafting, which is one of the least explored issues in the literature on the promotion of democracy, good governance, law and development, and development aid.

The implications of my findings are that the unique experience, norms, and institutions of developing countries can be more attractive than those provided by advanced countries, as they are born out of developing countries and are continuously tested in relation to the on-going challenges that many developing countries commonly face.

In Western literature, a long-standing and entrenched belief that Western expertise is based on superior knowledge, science, and institutions that are universally applicable, has been brought under critical investigation (Mawdsley 2012). A sober examination and fair recognition of India's role in the promotion of democracy would be a good starting point for further investigation into the huge potential of developing countries in facilitating political, economic, and social development for fellow developing countries. There is much evidence to show that a network of knowledge transfer and sharing among developing countries has been created (Shimomura and Wang 2015), and future research is guaranteed.

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## Abstract (in Japanese)

### 要約

新興国ドナーが、自国独自の経験、技術、制度、理念を活用して他の途上国の政治的・経済的・社会的発展（特に民主的ガバナンスの改善）にどのように貢献できるかはほとんど検討されていない。

本稿は、インドが展開してきた民主化支援に着目し、国家建設・国民形成・民主主義の確立という課題の同時達成に苦慮する多くの途上国にとって、インドが独立以来蓄積してきた包摂的で多元主義的な民主主義、あるいは立憲民主主義の経験が有益であると主張する。

**Working Papers from the same research project**

**“Comparative Study on Development Cooperation Strategies:  
Focusing on G20 Emerging Economies”**

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*Convergence of Aid Models in Emerging Donors? Learning Processes, Norms and  
Identities, and Recipients*

Hisahiro Kondoh